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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN K. MAYES, Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

2010 JUN 23 P 3:00

AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

JUN 23 2010

DOCKETED BY

MM

IN THE MATTER OF:

FIVE STAR TREE SERVICE AND
LANDSCAPING, LLC, an Arizona limited
liability company,

RICHARD MCCULLUM, JR., a married man,

LEAH ATWOOD, a married woman,

Respondents.

DOCKET NO. S-20715A-09-0564

THIRD
PROCEDURAL ORDER
(Continues Hearing)

BY THE COMMISSION:

On December 17, 2009, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Temporary Order to Cease and Desist ("T.O.") and Notice of Opportunity for Hearing ("Notice") against Five Star Tree Service and Landscaping, LLC ("FSTL"), Richard McCullum, Jr. and Leah Atwood, husband and wife (collectively "Respondents"), in which the Division alleged multiple violations of the Arizona Securities Act ("Act") in connection with the offer and sale of securities in the form of investment contracts.

The Respondents were duly served with a copy of the Notice.

On February 16, 2010, a request for hearing was filed by Respondents Leah Atwood and FSTL. Respondents also requested that an attorney be appointed to represent them.

On February 17, 2010, by Procedural Order, a pre-hearing conference was scheduled on March 30, 2010, and Respondents advised that since this is an administrative proceeding and not a criminal proceeding, Respondents did not have a right to the appointment of counsel pursuant to the Arizona Rules of Criminal Procedure. Respondents were further advised that they could either retain counsel or they could represent themselves pursuant to the Commission's Rules of Practice and Procedure A.A.C. R14-3-101 *et seq.* and the Rules of the Arizona Supreme Court.

1 On March 30, 2010, at the pre-hearing conference, the Division appeared with counsel and
2 Respondent, Leah Atwood, appeared on her own behalf. The Division presented a request from
3 hearing by Respondent McCullum, which the Division indicated would be filed after the initial pre-
4 hearing conference. The Division requested that a hearing also be scheduled.

5 On March 31, 2010, by Procedural Order, a hearing was scheduled on June 29 and 30, 2010.

6 Due to a conflict with the Commission's Open Meeting scheduled on June 29 and 30, 2010,
7 the hearing should be continued to a later date.

8 IT IS THEREFORE ORDERED that the **hearing** scheduled on June 29 and 30, 2010, shall be
9 continued to **September 28, 2010**, at 9:30 a.m., at the Commission's offices, 1200 West Washington
10 Street, Hearing Room 1, Phoenix, Arizona.

11 IT IS FURTHER ORDERED that the parties shall also set aside **September 29, 2010, for an**
12 **additional day of hearing**, if necessary.

13 IT IS FURTHER ORDERED that **if the case is resolved by proposed Consent Orders**
14 **prior to the hearing, the Division shall file a Motion to vacate the proceeding.**

15 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 – Unauthorized
16 Communications) applies to this proceeding as the matter is now set for public hearing.

17 IT IS FURTHER ORDERED that withdrawal or representation must be made in compliance
18 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the
19 Rules of the Arizona Supreme Court). Representation before the Commission includes appearances
20 at all hearings and procedural conferences, as well as all Open Meetings for which the matter is
21 scheduled for discussion, unless counsel has previously been granted permission to withdraw by the
22 Administrative Law Judge or the Commission.

23 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules
24 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and admission
25 *pro hac vice*.

26 ...

27 ...

28 ...

1 IT IS FURTHER ORDERED that the Presiding Administrative Law Judge may rescind, alter,
2 amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by
3 ruling at hearing.

4 DATED this 23rd day of June, 2010.

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MARC E. STERN
ADMINISTRATIVE LAW JUDGE

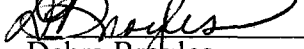
9 Copies of the foregoing mailed/delivered
10 this 23rd day of June, 2010 to:

11 Leah Atwood
12 5746 South Estrella Road, No. 2
13 Gold Canyon, AZ 85118

14 Richard McCullum, Jr.
15 5703 Laurel Canyon Blvd., #306
16 Valley Village, CA 91607

17 Matt Neubert, Director
18 Securities Division
19 ARIZONA CORPORATION COMMISSION
20 1300 West Washington Street
21 Phoenix, AZ 85007

22 ARIZONA REPORTING SERVICE, INC.
23 2200 North Central Avenue, Suite 502
24 Phoenix, AZ 85004

25 By: 
26 Debra Broyles
27 Secretary to Marc E. Stern
28